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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,998	01/29/2004	Cassius Almeida	A-9806/C04113-00045US01	3635
181 7590 10/15/2009 MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833				
EXAMINER CAMPEN, KELLY SCAGGS				
ART UNIT 3691		PAPER NUMBER		
NOTIFICATION DATE 10/15/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milestockbridge.com  
sstiles@milestockbridge.com

### Office Action Summary

**Application No.**

10/765,998

**Applicant(s)**

ALMEIDA ET AL.

**Examiner**

KELLY CAMPEN

**Art Unit**

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 37-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

*The following is in response to the amendments and remarks filed 6/29/2009 with the RCE filed 7/24/2009, claims 1-13 and 37-40 are pending, claims 14-36 have been cancelled.*

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/24/2009 has been entered.

***Claim Rejections - 35 USC § 112***

The 35 USC 112 1<sup>st</sup> paragraph rejections have been overcome and are therefore withdrawn.

***Drawings***

The drawings are objected to because the reference numerals are in different directions (numerals are upside down and sideways) making figures 3 and 4 difficult to read. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

“amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-13, 37-40 are rejected under 35 U.S.C. 102(a) as being anticipated by Tenorio (US 2002/0082849)

Tenorio discloses a quote and order entry system comprising: a quote interface module adapted to receive information from a quote information source, the quote interface module assembling the received information in an interactive user interface, wherein in the interactive user interface a first category of information is displayed together with a first plurality of

concentric bands each having a dimension determined based on ask size information and a second plurality of concentric bands each having a dimension determined based on bid size information (abstract, figure 3, see paragraph [0006], [0013]-[0017]).

Specifically as to claim 2, wherein the first category of information comprises one or more of a stock symbol, last price information, bid tick information, bid price information, price change for day information, ask price information, last size information, a split-buy button and a split-sell button (see paragraph [0006]).

Specifically as to claim 3, wherein the bands of the first plurality and the bands of the second plurality are dynamic and are capable of being resized based on liquidity (see paragraph [0020], [0021]).

Specifically as to claim 4, wherein the bands of the first plurality and the bands of the second plurality are selectable (see paragraph [0020]-[0023]).

Specifically as to claim 5, wherein upon selection of a band of the one or more bands representing ask size information and the one or more bands representing bid size information, an order module assembles an order based on section information and information associated with the selected band (see paragraph [0024]).

Specifically as to claim 6, the information associated with the selected band comprises price point information (see paragraph [0024]-[0025]).

Specifically as to claim 7, wherein the selected band further includes market participant information including at least one of market-maker identifiers, exchange identifiers and Electronic Communication Network identifiers (see paragraph [0014]).

Specifically as to claim 8, wherein the one or more bands representing ask size information and the one or more bands representing bid size information are resizable based on at least one of linear proportions, logarithmic proportions, linear resizable proportions and scale to fit (see paragraph [0015],[0018], [0020]).

Specifically as to claim 9, further comprising a stop button that freezes the one or more bands representing ask size information and the one or more bands representing bid size information (design choice-- see paragraph [0006], [0020]).

Specifically as to claim 10, wherein the one or more bands representing ask size information and the one or more bands representing bid size information are user configurable such that at least one of color, size, font, refresh rate, minimum band width, maximum band width and proportionalities can be selected (figures 1, 3, and see paragraph [0020]).

Specifically as to claim 11, a summary module adapted to display at least one of summary information and order information (figures 1, 3, and see paragraph [0020], Tenorio is capable of performing this function).

Specifically as to claim 12, an order module that is capable of assembling and displaying one or more of an order preview interface and an order confirmation interface (figures 1, 3, and see paragraph [0020], Tenorio is capable of performing this function).

Specifically as to claim 13, an order preview interface and an order confirmation interface are capable of being disabled to allow one-click transactions (figures 1, 3, and see paragraph [0020], Tenorio is capable of performing this function).

Specifically as to claim 37, the first plurality of bands and the second plurality of bands are disposed to opposite sides of a common center so as to be opposed to each other (abstract, figures 1 and 3, see paragraph [0006], [0013]-[0017]).

Specifically as to claim 38, bands of the first plurality have respective widths that vary based on ask size information, and the bands of the second plurality have respective widths that vary based on bid size information (abstract, figures 1 and 3, see paragraph [0006], [0013]-[0017]).

Specifically as to claim 39, each band of the first plurality has a color different from that of any adjacent band of the first plurality, and wherein each band of the second plurality has a color different from that of any adjacent band of the second plurality (abstract, figures 1 and 3, see paragraph [0006], [0013]-[0017]).

Specifically as to claim 40, the bands of the first plurality and the bands of the second plurality are arc-shaped (abstract, figures 1 and 3, see paragraph [0006], [0013]-[0017]).

### ***Response to Arguments***

Applicant's arguments filed 7/24/2009 (6/29/2009) have been fully considered but they are not persuasive.

In response to applicant's argument that the first category of information is displayed together with (i) a first plurality of concentric bands each having a dimension determined based on ask size information, and (ii) a second plurality of concentric bands each having a dimension determined based on bid size information, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in

order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Examiner does not see how the concentric bands, an indication of graphical representation, is structural. Tenorio discloses that the first category of information is displayed together with (i) a first plurality of concentric bands each having a dimension determined based on ask size information, and (ii) a second plurality of concentric bands each having a dimension determined based on bid size information (see abstract, figure 3, see paragraph [0006], [0013]-[0017]).

### ***Conclusion***

This is a continuation of applicant's earlier Application No. 10/765998. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however,



event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY CAMPEN whose telephone number is (571)272-6740. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kelly Campen/  
Primary Examiner, Art Unit 3691